

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1008 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 transportation and to make an appropriation.
- 4 Page 1, between lines 7 and 8, begin a new paragraph and insert:
- 5 "SECTION 2. IC 4-4-11-15.6, AS ADDED BY P.L.214-2005,
- 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2006]: Sec. 15.6. In addition to the powers listed in section 15
- 8 of this chapter, the authority may:
- 9 (1) issue bonds under terms and conditions determined by the
- 10 authority and use the proceeds of the bonds to acquire obligations
- 11 issued by any entity authorized to acquire, finance, construct, or
- 12 lease capital improvements under IC 5-1-17; ~~and~~
- 13 (2) issue bonds under terms and conditions determined by the
- 14 authority and use the proceeds of the bonds to acquire any
- 15 obligations issued by the northwest Indiana regional development
- 16 authority established by IC 36-7.5-2-1; ~~and~~
- 17 **(3) issue bonds under terms and conditions determined by the**
- 18 **authority and use the proceeds of the bonds to acquire any**
- 19 **obligations issued by the northeast Indiana regional**
- 20 **development authority established by IC 36-7.6-2-1."**
- 21 Page 7, between lines 9 and 10, begin a new paragraph and insert:
- 22 **"Sec. 7. Money in the fund may be used for a purpose other than**
- 23 **a purpose that is specified in this chapter on the effective date of**
- 24 **this chapter only if the general assembly authorizes the purpose in**
- 25 **a statute approved by at least seventy-five percent (75%) of the**

1 **members of the house of representatives and by at least**
 2 **seventy-five percent (75%) of the members of the senate."**

3 Page 13, line 22, after "pay" insert ":

4 **(1) for the calendar years 2006 and 2007,".**

5 Page 13, line 24, beginning with "(1)", begin a new line double
 6 block indented.

7 Page 13, line 24, strike "(1)" and insert "(A)".

8 Page 13, line 25, beginning with "(2)", begin a new line double
 9 block indented.

10 Page 13, line 25, strike "(2)" and insert "(B)".

11 Page 13, line 28, after "IC 36-7.5-4-1" delete ". A payment required
 12 by this".

13 Page 13, line 29, delete "subsection may be made".

14 Page 13, line 30, after "IC 8-15.5-11" delete "." and insert "; and

15 **(2) for each of the calendar years 2008 through 2015, an**
 16 **amount equal to ten million dollars (\$10,000,000) to the**
 17 **development authority fund established under IC 36-7.5-4-1**
 18 **from the toll road fund in accordance with IC 8-15.5-11."**

19 Page 13, between lines 35 and 36, begin a new paragraph and insert:
 20 "SECTION 10. IC 8-15-2-14.8 IS ADDED TO THE INDIANA
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2006]: Sec. 14.8. (a) As used in this section,
 23 "development authority" refers to the northeast Indiana regional
 24 development authority established by IC 36-7.6-2-1.

25 **(b) Subject to the trust agreement of any outstanding bonds, the**
 26 **authority shall distribute to the development authority in calendar**
 27 **year 2007 and calendar year 2008 from revenues accruing to the**
 28 **authority from the toll road at least five million dollars (\$5,000,000)**
 29 **and not more than ten million dollars (\$10,000,000) each year. The**
 30 **amount of the distribution for a year shall be determined by the**
 31 **authority. The amount to be distributed each year shall be**
 32 **distributed in equal quarterly amounts before the last business day**
 33 **of January, April, July, and October of 2007 and 2008. The**
 34 **amounts distributed under this subsection shall be deposited in the**
 35 **development authority fund established under IC 36-7.6-4-1.**

36 **(c) Subject to the trust agreement for any outstanding bonds and**
 37 **subject to the requirements of subsection (d), after 2008 the**
 38 **authority may distribute to the development authority amounts**
 39 **from revenues accruing to the authority from the toll road. The**
 40 **amount of any distribution for a year shall be determined by the**
 41 **authority. Any amounts to be distributed for the year under this**
 42 **subsection shall be distributed in equal quarterly amounts before**
 43 **the last business day of January, April, July, and October of the**
 44 **year. Any amounts distributed under this subsection shall be**
 45 **deposited in the development authority fund established under**
 46 **IC 36-7.6-4-1.**

(d) A distribution may be made by the authority to the development authority under subsection (c) only after the budget committee has reviewed the development authority's comprehensive strategic development plan under IC 36-7.6-3-4 and the director of the office of management and budget has approved the comprehensive strategic development plan.

(e) If the Indiana Toll Road is sold or leased before January 1, 2008 (other than a lease to the department), and the sale or lease agreement does not require the purchaser or lessee to continue making the distributions required by subsection (b), the treasurer of state shall pay:

(1) for the calendar year 2007, an amount equal to the greater of zero (0) or the result of:

(A) ten million dollars (\$10,000,000); minus

(B) any amounts transferred to the development authority under this section before the sale or lease;

to the development authority fund established under IC 36-7.6-4-1 from the state general fund or from the toll road fund in accordance with IC 8-15.5-11; and

(2) for each of the calendar years 2008 through 2016, an amount equal to ten million dollars (\$10,000,000) to the development authority fund established under IC 36-7.6-4-1 from the toll road fund in accordance with IC 8-15.5-11.

(f) Amounts distributed or paid to the development authority under this section may be used for any purpose of the development authority authorized under IC 36-7.6.

(g) The amounts necessary to make any distributions or payments required or authorized by this section are appropriated."

Page 39, line 38, after ";" delete "and".

Page 39, between lines 38 and 39, begin a new line block indented and insert:

"(3) with respect to the northeast Indiana regional development authority:

(A) all or part of a distribution described in IC 8-15-2-14.8; and

(B) the acquisition, construction, renovation, improvement, and equipping of a project (as defined in IC 36-7.6-1); and".

Page 39, line 39, delete "(3)" and insert "(4)".

Page 40, line 12, delete "and".

Page 40, between lines 12 and 13, begin a new line double block indented and insert:

"(C) the northeast Indiana regional development authority established in IC 36-7.6-2; and".

Page 40, line 13, delete "(C)" and insert "(D)".

Page 41, line 36, delete "and" and insert **"(3) the northeast Indiana regional development authority; and"**.

Page 41, line 37, delete "(3)" and insert **"(4)"**.

Page 42, between lines 34 and 35, begin a new paragraph and insert:
"(d) Before July 1, 2006, and every year thereafter, the northeast Indiana regional development authority may submit to the authority a request for a distribution from the eligible project account. The request must include a list of the eligible projects that:

(1) are to be carried out by the northeast Indiana regional development authority during the state fiscal year beginning on July 1 of that year; and

(2) require a distribution of money from the eligible project account.

The list must include the amount of distributions requested for each project during the fiscal year, the total amount of distributions requested for all projects during the fiscal year, and the proposed schedule of distributions for each project. The authority may approve, modify and approve, or reject a request made under this section. The authority shall make any distributions in the amounts and in accordance with the schedule as approved by the authority and shall pay the distributions from the eligible project account to the northeast Indiana regional development authority for deposit in the general account of the development authority fund established under IC 36-7.6-4-1."

Page 42, line 35, delete "(d)" and insert **"(e)"**.

Page 43, between lines 13 and 14, begin a new paragraph and insert:
"(e) Any use or withdrawal of money from the toll road fund, which would result in the inability of the treasurer of state to distribute the money required to be distributed to the northwest Indiana regional development authority pursuant to IC 8-15-2-14.7 or to the northeast Indiana regional development authority pursuant to IC 8-15-2-14.8, must be made by an act passed by at least seventy-five percent (75%) of the members of the house of representatives and by at least seventy-five percent (75%) of the members of the senate, and the use or withdrawal may not occur until the bill is enacted and becomes effective.

Sec. 8. Money in the fund may be used for a purpose other than a purpose that is specified in this chapter on the effective date of this chapter only if the general assembly authorizes the purpose in a statute approved by at least seventy-five percent (75%) of the members of the house of representatives and by at least seventy-five percent (75%) of the members of the senate."

Page 77, between lines 2 and 3, begin a new paragraph and insert:
"SECTION 42. IC 36-7.6 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2006]:

ARTICLE 7.6. NORTHEAST INDIANA REGIONAL DEVELOPMENT AUTHORITY

Chapter 1. Definitions

Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.

Sec. 2. "Airport authority" refers to an airport authority established under IC 8-22-3.

Sec. 3. "Airport authority project" means a project that can be financed with the proceeds of bonds issued by an airport authority under IC 8-22-3.

Sec. 4. "Bonds" means bonds, notes, or other evidences of indebtedness issued by the development authority.

Sec. 5. "Development authority" refers to the northeast Indiana regional development authority established by IC 36-7.6-2-1.

Sec. 6. "Development board" refers to the governing body appointed under IC 36-7.6-2-3.

Sec. 7. "Economic development project" means an economic development project described in IC 6-3.5-7-13.1(c).

Sec. 8. "Eligible county" refers to the following counties:

(1) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).

(2) A county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950).

(3) A county having a population of more than thirty-three thousand two hundred (33,200) but less than thirty-three thousand six hundred (33,600).

Sec. 9. "Eligible political subdivision" means the following:

(1) An airport authority.

(2) A regional transportation authority.

Sec. 10. "Project" means an airport authority project, an economic development project, or a regional transportation authority project.

Sec. 11. "Regional transportation authority" means a regional transportation authority established under IC 36-9-3-2.

Sec. 12. "Regional transportation authority project" means a project that can be financed with the proceeds of bonds issued by a regional transportation authority under IC 36-9-3.

Chapter 2. Development Authority and Board

Sec. 1. The northeast Indiana regional development authority is established as a separate body corporate and politic to carry out the purposes of this article by:

- (1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article; and
- (2) funding and developing airport authority projects and services, regional transportation authority projects and services, and economic development projects in the eligible counties.

Sec. 2. The development authority may carry out its powers and duties under this article in an eligible county.

Sec. 3. (a) The development authority is governed by the development board appointed under this section.

(b) The development board is composed of the following nine (9) members:

- (1) Three (3) members appointed by the governor.
- (2) The following members from a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000):
 - (A) One (1) member appointed by the county executive.
 - (B) One (1) member appointed by county fiscal body.
- (3) The following members from a county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950):
 - (A) One (1) member appointed by the county executive.
 - (B) One (1) member appointed by the county fiscal body.
- (4) The following members from a county having a county having a population of more than thirty-three thousand two hundred (33,200) but less than thirty-three thousand six hundred (33,600):
 - (A) One (1) member appointed by the county executive.
 - (B) One (1) member appointed by the county fiscal body.

(c) A member appointed to the development board must have knowledge of and at least five (5) years professional work experience in at least one (1) of the following:

- (1) Air transportation.
- (2) Regional transportation development.
- (3) Regional economic development.
- (4) Business or finance.

(d) An individual or entity required to make an appointment under subsection (b) must make the initial appointment before September 1, 2006. If an individual or entity does not make an initial appointment under subsection (b) before September 1, 2006, the governor shall instead make the initial appointment.

Sec. 4. (a) Except as provided in subsection (b) for the initial appointments to the development board, a member appointed to the development board serves a four (4) year term. However, a

1 member serves at the pleasure of the appointing authority. A
2 member may be reappointed to subsequent terms.

3 (b) The terms of the initial members appointed to the
4 development board are as follows:

5 (1) Each initial member appointed by the governor shall serve
6 a term of four (4) years.

7 (2) The initial member appointed under section 3(b)(2)(A) of
8 this chapter shall serve a term of three (3) years.

9 (3) The initial member appointed under section 3(b)(3)(A) of
10 this chapter shall serve a term of three (3) years.

11 (4) The initial member appointed under section 3(b)(2)(B) of
12 this chapter shall serve a term of two (2) years.

13 (5) The initial member appointed under section 3(b)(3)(B) of
14 this chapter shall serve a term of two (2) years.

15 (c) If a vacancy occurs on the development board, the
16 appointing authority that made the initial appointment shall fill the
17 vacancy by appointing a new member for the remainder of the
18 vacated term.

19 (d) Each member appointed to the development board, before
20 entering upon the duties of office, must take and subscribe an oath
21 of office under IC 5-4-1, which shall be endorsed upon the
22 certificate of appointment and filed with the records of the
23 development board.

24 (e) A member appointed to the development board is not entitled
25 to receive any compensation for performance of the member's
26 duties. However, a member is entitled to a per diem from the
27 development authority for the member's participation in
28 development board meetings. The amount of the per diem is equal
29 to the amount of the per diem provided under IC 4-10-11-2.1(b).

30 Sec. 5. (a) The governor shall designate a member of the
31 development board appointed by the governor to serve as chair of
32 the development board until January 2013. At the election under
33 subsection (b) in 2013 and each year thereafter, the chair shall be
34 elected from among the members of the development board.

35 (b) In January of each year, the development board shall hold
36 an organizational meeting at which the development board shall
37 elect the following officers from the members of the development
38 board:

39 (1) After December 31, 2012, a chair.

40 (2) A vice chair.

41 (3) A secretary-treasurer.

42 (c) Not more than two (2) members from any particular county
43 may serve as an officer described in subsection (a) or elected under
44 subsection (b). The affirmative vote of at least five (5) members of
45 the development board is necessary to elect an officer under
46 subsection (b).

1 (d) An officer elected under subsection (b) serves from the date
2 of the officer's election until the officer's successor is elected and
3 qualified.

4 Sec. 6. (a) The development board shall meet at least quarterly.

5 (b) The chair of the development board or any two (2) members
6 of the development board may call a special meeting of the
7 development board.

8 (c) Five (5) members of the development board constitute a
9 quorum.

10 (d) The affirmative votes of at least five (5) members of the
11 development board are necessary to authorize any action of the
12 development authority.

13 (e) Notwithstanding any other provision of this article, the
14 minimum of five (5) affirmative votes required under subsection (d)
15 to take any of the following actions before January 1, 2013, must
16 include the affirmative vote of the member designated by the
17 governor to serve as the chair of the board:

18 (1) Making loans, loan guarantees, or grants or providing any
19 other funding or financial assistance for projects.

20 (2) Acquiring or condemning property.

21 (3) Entering into contracts.

22 (4) Employing an executive director or any consultants or
23 technical experts.

24 (5) Issuing bonds or entering into a lease of a project.

25 Sec. 7. The development board may adopt the bylaws and rules
26 that the development board considers necessary for the proper
27 conduct of the development board's duties and the safeguarding of
28 the development authority's funds and property.

29 Sec. 8. (a) The development authority must comply with
30 IC 5-16-7 (common construction wage), IC 5-22 (public
31 purchasing), IC 36-1-12 (public work projects), and any applicable
32 federal bidding statutes and regulations. An eligible political
33 subdivision that receives a loan, a grant, or other financial
34 assistance from the development authority or enters into a lease
35 with the development authority must comply with applicable
36 federal, state, and local public purchasing and bidding laws and
37 regulations. However, a purchasing agency (as defined in
38 IC 5-22-2-25) of an eligible political subdivision may:

39 (1) assign or sell a lease for property to the development
40 authority; or

41 (2) enter into a lease for property with the development
42 authority;

43 at any price and under any other terms and conditions as may be
44 determined by the eligible political subdivision and the
45 development authority. However, before making an assignment or
46 sale of a lease or entering into a lease under this section that would

otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by the development authority, the development authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goals under this subsection, the authority shall take into account historical precedents in the same market.

Sec. 9. The office of management and budget shall contract with a certified public accountant for an annual financial audit of the development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to the development authority. The certified public accountant shall present an audit report not later than four (4) months after the end of the development authority's fiscal year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period. The development authority shall pay the cost of the annual financial audit. In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of the development authority. The development authority shall pay the cost of any audit by the state board of accounts.

Chapter 3. Development Authority Powers and Duties

Sec. 1. The development authority shall do the following:

- (1) Assist in the coordination of local efforts concerning projects.
- (2) Assist an airport authority and a regional transportation authority in coordinating regional transportation and economic development efforts.
- (3) Fund projects as provided in this article.

Sec. 2. (a) The development authority may do any of the following:

- (1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects located in an eligible county.

1 (2) Lease land or a project to an eligible political subdivision.

2 (3) Finance and construct additional improvements to projects
3 or other capital improvements owned by the development
4 authority and lease them to or for the benefit of an eligible
5 political subdivision.

6 (4) Acquire land or all or a part of one (1) or more projects
7 from an eligible political subdivision by purchase or lease and
8 lease the land or projects back to the eligible political
9 subdivision, with any additional improvements that may be
10 made to the land or projects.

11 (5) Acquire all or a part of one (1) or more projects from an
12 eligible political subdivision by purchase or lease to fund or
13 refund indebtedness incurred on account of the projects to
14 enable the eligible political subdivision to make a savings in
15 debt service obligations or lease rental obligations or to obtain
16 relief from covenants that the eligible political subdivision
17 considers to be unduly burdensome.

18 (6) Make loans, loan guarantees, and grants or provide other
19 financial assistance to or on behalf of an airport authority or
20 a regional transportation authority.

21 (7) Provide funding to assist an airport authority located in an
22 eligible county in the construction, reconstruction, renovation,
23 purchase, lease, acquisition, and equipping of an airport
24 facility or airport project.

25 (8) Provide funding for economic development projects in an
26 eligible county.

27 (9) Hold, use, lease, rent, purchase, acquire, and dispose of by
28 purchase, exchange, gift, bequest, grant, condemnation, lease,
29 or sublease, on the terms and conditions determined by the
30 development authority, any real or personal property located
31 in an eligible county.

32 (10) After giving notice, enter upon any lots or lands for the
33 purpose of surveying or examining them to determine the
34 location of a project.

35 (11) Make or enter into all contracts and agreements
36 necessary or incidental to the performance of the development
37 authority's duties and the execution of the development
38 authority's powers under this article.

39 (12) Sue, be sued, plead, and be impleaded.

40 (13) Design, order, contract for, construct, reconstruct, and
41 renovate a project or improvements to a project.

42 (14) Appoint an executive director and employ appraisers,
43 real estate experts, engineers, architects, surveyors, attorneys,
44 accountants, auditors, clerks, construction managers, and any
45 consultants or employees that are necessary or desired by the

development authority in exercising its powers or carrying out its duties under this article.

(15) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(16) Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(17) Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

Sec. 3. The development authority shall before November 1 of each year issue a report to the legislative council, the budget committee, and the governor concerning the operations and activities of the development authority during the preceding state fiscal year. The report to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 4. (a) The development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

(1) The proposed projects to be undertaken or financed by the development authority.

(2) The following information for each project included under subdivision (1):

(A) Timeline and budget.

(B) The return on investment.

(C) The projected or expected need for an ongoing subsidy.

(D) Any projected or expected federal matching funds.

(b) The development authority shall before January 1, 2009, submit the comprehensive strategic development plan for review by

1 the budget committee and approval by the director of the office of
2 management and budget.

3 **Chapter 4. Financing; Issuance of Bonds; Leases**

4 **Sec. 1. (a) The development board shall establish and administer**
5 **a development authority fund.**

6 **(b) The development authority fund consists of the following:**

7 **(1) Amounts distributed under IC 8-15-2-14.8.**

8 **(2) Funds received from the federal government.**

9 **(3) Appropriations to the fund by the general assembly.**

10 **(4) Other local revenue appropriated to the fund by a political**
11 **subdivision.**

12 **(5) Gifts, donations, and grants to the fund.**

13 **(c) The development authority fund shall be administered by the**
14 **development authority.**

15 **(d) Money in the development authority fund shall be used by**
16 **the development authority to carry out this article and does not**
17 **revert to any other fund.**

18 **Sec. 2. (a) Subject to subsection (h), the development authority**
19 **may issue bonds for the purpose of obtaining money to pay the cost**
20 **of:**

21 **(1) acquiring real or personal property, including existing**
22 **capital improvements;**

23 **(2) acquiring, constructing, improving, reconstructing, or**
24 **renovating one (1) or more projects; or**

25 **(3) funding or refunding bonds issued under this chapter,**
26 **IC 8-22-3, IC 36-9-3, or prior law.**

27 **(b) The bonds are payable solely from:**

28 **(1) the lease rentals from the lease of the projects for which**
29 **the bonds were issued, insurance proceeds, and any other**
30 **funds pledged or available; and**

31 **(2) except as otherwise provided by law, revenue received by**
32 **the development authority and amounts deposited in the**
33 **development authority fund.**

34 **(c) The bonds must be authorized by a resolution of the**
35 **development board.**

36 **(d) The terms and form of the bonds must either be set out in**
37 **the resolution or in a form of trust indenture approved by the**
38 **resolution.**

39 **(e) The bonds must mature within forty (40) years.**

40 **(f) The board shall sell the bonds only to the Indiana finance**
41 **authority established by IC 4-4-11-4 upon the terms determined by**
42 **the development board and the Indiana finance authority.**

43 **(g) All money received from any bonds issued under this chapter**
44 **shall be applied solely to the payment of the cost of acquiring,**
45 **constructing, improving, reconstructing, or renovating one (1) or**

more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

- (1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;
- (4) architectural, engineering, consultant, and attorney's fees;
- (5) incidental expenses in connection with the issuance and sale of bonds;
- (6) reserves for principal and interest;
- (7) interest during construction;
- (8) financial advisory fees;
- (9) insurance during construction;
- (10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.

(h) The development authority may not issue bonds under this article unless the development authority first finds that each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds requires payment of the common construction wage required by IC 5-16-7.

Sec. 3. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this article.

Sec. 4. (a) The development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank in Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign revenue received by the development authority, amounts deposited in the development authority fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;

(3) set forth the rights and remedies of bondholders and trustees; and

(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

Sec. 5. (a) Bonds issued under IC 8-22-3, IC 36-9-3, or prior law may be refunded as provided in this section.

(b) An eligible political subdivision may:

(1) lease all or a part of land or a project or projects to the development authority, which may be at a nominal lease rental with a lease back to the eligible political subdivision, conditioned upon the development authority assuming bonds issued under IC 8-22-3, IC 36-9-3, or prior law and issuing its bonds to refund those bonds; and

(2) sell all or a part of land or a project or projects to the development authority for a price sufficient to provide for the refunding of those bonds and lease back the land or project or projects from the development authority.

Sec. 6. (a) Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project from the development authority to an eligible political subdivision:

(1) may not have a term exceeding forty (40) years;

(2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;

(3) may contain provisions:

(A) allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and

(B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;

(4) may contain an option to renew the lease for the same or a shorter term on the conditions provided in the lease;

(5) must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a project;

(7) may provide that the eligible political subdivision shall agree to:

(A) pay any taxes and assessments on the project;

(B) maintain insurance on the project for the benefit of the development authority;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the development authority from any funds legally available to the eligible political subdivision before the commencement of the lease to secure the performance of the eligible political subdivision's obligations under the lease; and

(8) must provide that the lease rental payments by the eligible political subdivision shall be made from the development authority fund established under section 1 of this chapter and may provide that the lease rental payments by the eligible political subdivision shall be made from:

(A) net revenues of the project;

(B) any other funds available to the eligible political subdivision; or

(C) both sources described in clauses (A) and (B).

Sec. 7. This chapter contains full and complete authority for leases between the development authority and an eligible political subdivision. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development authority or the eligible political subdivision or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.

Sec. 8. If the lease provides for a project or improvements to a project to be constructed by the development authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

Sec. 9. The development authority and an eligible political subdivision may enter into common wall (party wall) agreements

1 or other agreements concerning easements or licenses. These
 2 agreements shall be recorded with the recorder of the county in
 3 which the project is located.

4 Sec. 10. (a) An eligible political subdivision may lease for a
 5 nominal lease rental, or sell to the development authority, one (1)
 6 or more projects or parts of a project or land upon which a project
 7 is located or is to be constructed.

8 (b) Any lease of all or a part of a project by an eligible political
 9 subdivision to the development authority must be for a term equal
 10 to the term of the lease of that project back to the eligible political
 11 subdivision.

12 (c) An eligible political subdivision may sell property to the
 13 development authority for the amount the eligible political
 14 subdivision determines to be in the best interest of the eligible
 15 political subdivision. The development authority may pay that
 16 amount from the proceeds of bonds of the development authority.

17 Sec. 11. If an eligible political subdivision exercises its option to
 18 purchase leased property, the eligible political subdivision may
 19 issue its bonds as authorized by statute.

20 Sec. 12. (a) All:

- 21 (1) property owned by the development authority;
- 22 (2) revenues of the development authority; and
- 23 (3) bonds issued by the development authority, the interest on
- 24 the bonds, the proceeds received by a holder from the sale of
- 25 bonds to the extent of the holder's cost of acquisition, proceeds
- 26 received upon redemption before maturity, proceeds received
- 27 at maturity, and the receipt of interest in proceeds;

28 are exempt from taxation in Indiana for all purposes except the
 29 financial institutions tax imposed under IC 6-5.5 or a state
 30 inheritance tax imposed under IC 6-4.1.

31 (b) All securities issued under this chapter are exempt from the
 32 registration requirements of IC 23-2-1 and other securities
 33 registration statutes.

34 Sec. 13. Bonds issued under this chapter are legal investments
 35 for private trust funds and the funds of banks, trust companies,
 36 insurance companies, building and loan associations, credit unions,
 37 savings banks, private banks, loan and trust and safe deposit
 38 companies, rural loan and savings associations, guaranty loan and
 39 savings associations, mortgage guaranty companies, small loan
 40 companies, industrial loan and investment companies, and other
 41 financial institutions organized under Indiana law.

42 Sec. 14. An action to contest the validity of bonds to be issued
 43 under this chapter may not be brought after the time limitations set
 44 forth in IC 5-1-14-13.

45 Sec. 15. The general assembly covenants that it will not:

1 (1) repeal or amend this article in a manner that would
 2 adversely affect owners of outstanding bonds, or the payment
 3 of lease rentals, secured by the amounts pledged under this
 4 chapter; or

5 (2) in any way impair the rights of owners of bonds of the
 6 development authority, or the owners of bonds secured by
 7 lease rentals, secured by a pledge of revenues under this
 8 chapter."

9 Page 78, between lines 6 and 7, begin a new paragraph and insert:

10 "SECTION 48. [EFFECTIVE JULY 1, 2006] (a) As used in this
 11 SECTION, "eligible county" has the meaning set forth in
 12 IC 36-7.6-1-8, as added by this act.

13 (b) The general assembly finds the following:

14 (1) Each eligible county faces unique and distinct challenges
 15 and opportunities related to transportation and economic
 16 development that are different in scope and type than those
 17 faced by other units of local government in Indiana.

18 (2) A unique approach is required to fully take advantage of
 19 the economic development potential of northeastern Indiana.

20 (3) The powers and responsibilities provided to the northeast
 21 Indiana regional development authority established by
 22 IC 36-7.6-2-1, as added by this act, are appropriate and
 23 necessary to carry out the public purposes of encouraging
 24 economic development and further facilitating the provision
 25 of air and other regional transportation services, projects, and
 26 facilities, and economic development projects in the eligible
 27 counties."

28 Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 26, 2006.)

Representative Walorski